



## *Report to the Auburn City Council*

Action Item

Agenda Item No.

12



City Manager's Approval

**To:** Mayor and City Council Members  
**From:** Michael Colantuono, City Attorney  
**Prepared by:** Amy M. Lind, Asst. City Clerk  
**Date:** June 23, 2014  
**Subject:** Clairvoyants and Fortune-Telling License Tax

### **The Issue**

Shall the City Council enforce, amend, or repeal section 33.051 of the Auburn Municipal Code regarding Clairvoyants and Fortune-Telling?

### **Conclusion and Recommendation**

That the City Council direct staff to take appropriate action.

### **Background**

Clairvoyants and fortune tellers are regulated under two portions of the Auburn Municipal Code:

Chapter 115 requires the owner of such a business to apply for a permit from the Chief of Police. This chapter calls for collection of information about the applicant for public safety and welfare purposes.

Additionally, section 33.051 requires clairvoyants and fortune tellers to pay a \$100 per week license tax to do business within the City's limits.

The prospective proprietor of a fortune-telling business on Highway 49 has applied to the City for a business license, but has refused to pay the license tax because she claims it is illegal. Her license therefore remains pending as staffs await the Council's direction.

### **Alternatives Available and Fiscal Impact**

1. Issue the business license without the license tax called for by Section 33.051. The City would therefore not collect \$100 per week. However, others who currently pay the tax may raise a similar challenge and demand similar treatment.
2. Repeal Section 33.051. As noted in Alternative 1, the City would not collect \$100 per week for each of the clairvoyants and fortune tellers from which the City currently collects this license tax. This option thus involves the highest financial loss.
3. Seek an opinion from the City Attorney regarding the enforceability of Section 33.051. The staff and attorney costs involved with this option are budgeted resources.

[Print](#)

## Auburn, CA Municipal Code

**CHAPTER 115: FORTUNE TELLING**

---

## Section

- 115.01 Purpose and intent
- 115.02 Definitions
- 115.03 Fortune teller/palm reader establishments; permit required
- 115.04 Application; information required
- 115.05 Applicant; misrepresentation of facts prohibited
- 115.06 Applicant; fingerprints and photographs required
- 115.07 Authority to refuse to issue and suspend or revoke permits
- 115.08 Additional permits required
- 115.09 Denial of permits; appeals
- 115.10 Appeals
- 115.11 Injunctive relief
- 115.12 Unlawful operation

**§ 115.01 PURPOSE AND INTENT.**

It is the purpose and intent of the Council that the operation of fortune teller/palm reader establishments and persons operating as fortune tellers/palm readers should be regulated so as to further the public interest, safety and welfare by providing minimum qualifications for such persons.

(1973 Code, § 5-23.01) (Ord. 97-1, eff. 2-19-1997)

**§ 115.02 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***FORTUNE TELLER/PALM READER.*** A person who professes to predict future events and collects a fee for doing so.

***FORTUNE TELLER/PALM READER ESTABLISHMENT.*** A location where a person conducts a business as a fortune teller/palm reader.

(1973 Code, § 5-23.02) (Ord. 97-1, eff. 2-19-1997)

### **§ 115.03 FORTUNE TELLER/PALM READER ESTABLISHMENTS; PERMITS REQUIRED.**

(A) It shall be unlawful for any person to engage in, conduct or carry on, to permit to be engaged in, conducted or carried on, in or upon any premises within the city, as the owner or operator of a fortune teller/palm reader establishment as defined in this chapter, unless a permit for the operation of the establishment has been issued by the Chief of Police and remains in effect in conformity with the provisions of this chapter.

(B) The application shall be upon a form provided by the Chief of Police, and shall set forth the exact nature of the services to be provided, the proposed place of business and the facilities therefor and the name, including all names used and the address of each applicant.

(1973 Code, § 5-23.03) (Ord. 97-1, eff. 2-19-1997)

### **§ 115.04 APPLICATION; INFORMATION REQUIRED.**

Each applicant for a permit to operate as a fortune teller/palm reader shall provide the following information on a form supplied by the Chief of Police:

- (A) Full name;
- (B) Current address;
- (C) Age, height, color or hair and eyes;
- (D) Place of birth;
- (E) Places of previous employment for the 5 years preceding the date of application;
- (F) Whether or not he or she has been convicted of any felony or a misdemeanor involving moral turpitude;
- (G) The application shall be signed by the applicant under penalty of perjury, and filed with the Police Chief.

(1973 Code, § 5-23.04) (Ord. 97-1, eff. 2-19-1997)

### **§ 115.05 APPLICANT; MISREPRESENTATION OF FACTS PROHIBITED.**

Any person knowingly or intentionally misrepresenting to any officer or employee of the city any material fact in applying for a permit to operate a fortune teller/palm reader establishment shall be guilty of a misdemeanor.

(1973 Code, § 5-23.05) (Ord. 97-1, eff. 2-19-1997)

### **§ 115.06 APPLICANT; FINGERPRINTS AND PHOTOGRAPHS REQUIRED.**

Each applicant for a fortune teller/palm reader permit shall have his or her fingerprints and photographs taken at the Auburn Police Department.

(1973 Code, § 5-23.06) (Ord. 97-1, eff. 2-19-1997)

#### **§ 115.07 AUTHORITY TO REFUSE TO ISSUE AND SUSPEND OR REVOKE PERMITS.**

The Police Chief, in the exercise of sound and reasonable discretion, when the public safety and interest may require, may refuse to issue a fortune teller/palm reader permit, and may suspend or revoke any such permit upon finding that the person(s) applying for the permit has been convicted or a felony or misdemeanor involving moral turpitude.

(1973 Code, § 5-23.07) (Ord. 97-1, eff. 2-19-1997)

#### **§ 115.08 ADDITIONAL PERMITS REQUIRED.**

Any person who conducted business as a fortune teller/palm reader as an owner, employer, operator or employee is required to obtain a permit as outlined in this chapter.

(1973 Code, § 5-23.08) (Ord. 97-1, eff. 2-19-1997)

#### **§ 115.09 DENIAL OF PERMITS; APPEALS.**

Any action of denial taken by the Chief of Police shall be subject to an appeal to the City Manager, and the action of the City Manager shall be subject to an appeal to the Council.

(1973 Code, § 5-23.09) (Ord. 97-1, eff. 2-19-1997)

#### **§ 115.10 APPEALS.**

In the event an applicant is denied a permit pursuant to § 115.09, the applicant may appeal the denial to the City Council within 10 days of the denial. A public hearing shall be held within 60 days of the filing of the appeal after proper notice of the hearing.

(1973 Code, § 5-23.10) (Ord. 97-1, eff. 2-19-1997)

#### **§ 115.11 INJUNCTIVE RELIEF.**

In addition to the legal remedies provided for in this code, the operation of any fortune teller/palm reader establishment in violation of the provisions of this chapter shall be deemed a public nuisance, and may be enjoined by the city.

(1973 Code, § 5-23.11) (Ord. 97-1, eff. 2-19-1997)

#### **§ 115.12 UNLAWFUL OPERATION.**

It shall be unlawful for any person to engage in any of the activities or businesses regulated by this chapter without complying with the provisions of this chapter. Any violation of the provisions of this chapter shall constitute a misdemeanor.

(1973 Code, § 5-23.12) (Ord. 97-1, eff. 2-19-1997)

Print

Auburn, CA Municipal Code

**§ 33.051 CLAIRVOYANTS AND FORTUNE-TELLING.**

The license tax for conducting clairvoyance and fortune-telling shall be \$100 per week.

(1973 Code, § 3-1.307) (Ord. 611, eff. - -)